

Before the
Administrative Hearing Commission
State of Missouri



STATE COMMITTEE OF
PSYCHOLOGISTS,

Petitioner,

vs.

ROBERT L. HEDRICK, M.S.,

Respondent.

No. 13-1318 PS

DECISION

There is cause to discipline Robert L. Hedrick's license because he failed to complete and provide documentation of continuing education ("CE") hours. We grant the motion for summary decision filed by the State Committee of Psychologists ("the Committee") and cancel the hearing.

Procedure

On July 23, 2013, the Committee filed a complaint seeking to discipline Hedrick. Although we have no record of service of the complaint, Hedrick filed a request for more time to file an answer on August 23, 2013. In that communication, he acknowledges the notice of complaint/notice of hearing and references the case number. By order dated August 26, 2013, we granted the request for more time and gave Hedrick until September 23, 2013, to file his answer. Hedrick did not file an answer.

On February 28, 2014, the Committee filed a motion for summary decision. Regulation 1 CSR 15-3.446(6) provides that we may decide this case without a hearing if the Committee establishes facts that Hedrick does not dispute and entitle the Committee to a favorable decision.

The Committee cites the request for admissions that was served on Hedrick on November 19, 2013. Hedrick did not respond to the request. Under Supreme Court Rule 59.01, the failure to answer a request for admissions establishes the matters asserted in the request, and no further proof is required.¹ Such a deemed admission can establish any fact or any application of law to fact.² That rule applies to all parties, including those acting *pro se*.³ Section 536.073⁴ and our Regulation 1 CSR 15-3.420(1) apply that rule to this case.

We gave Hedrick until March 18, 2014, to respond to the motion for summary decision, but he did not respond. Therefore, the following facts are undisputed.

Findings of Fact

1. Hedrick is licensed by the Committee as a psychologist. Hedrick's license was originally issued on December 11, 1980, and was current and active at all relevant times.

2. On November 30, 2011, Hedrick sent an e-mail to the Committee stating he was unable to complete the required forty credit hours of CE for the reporting cycle of December 1, 2009 to November 30, 2011, ("the 2009 - 2011 reporting period"). Hedrick requested a three-month extension of time to complete his CE credit hours.

3. On December 21, 2011, the Committee's Executive Director, Pamela Goose, replied to Hedrick by e-mail and informed him that he would need to submit his request to the Committee at their next meeting on March 22, 2012. Goose suggested that Hedrick complete the CE hours and submit evidence of his completion prior to March 20, 2012.

¹ *Killian Constr. Co. v. Tri-City Constr. Co.*, 693 S.W.2d 819, 827 (Mo. App., W.D. 1985).

² *Linde v. Kilbourne*, 543 S.W.2d 543, 545-46 (Mo. App., W.D. 1976).

³ *Research Hosp. v. Williams*, 651 S.W.2d 667, 669 (Mo. App., W.D. 1983).

⁴ Statutory references, unless otherwise noted, are to the 2000 Missouri Revised Statutes.

4. On his application to renew his license, submitted to the Committee on January 30, 2012, Hedrick indicated that he did not obtain the forty hours of CE required for the 2009 - 2011 reporting period.

5. Hedrick did not complete or provide documentation of completion of the forty hours of CE required for the 2009 - 2011 reporting period prior to March 20, 2012, as suggested by Goose.

6. By letter dated May 15, 2012, the Committee informed Hedrick that he had until May 31, 2012 to complete and provide the Committee with documentation of the forty CE hours required for the 2009 - 2011 reporting period.

7. As of the date the Committee filed the complaint, Hedrick had not completed or provided documentation of completion of forty CE hours required for the 2009 - 2011 reporting period.

Conclusions of Law

We have jurisdiction to hear this case.⁵ The Committee has the burden of proving that Hedrick has committed an act for which the law allows discipline.⁶

Hedrick admitted the facts as we have found them.⁷ Statutes and case law instruct that we must “separately and independently” determine whether such facts constitute cause for discipline.⁸ Therefore, we independently assess whether the facts admitted allow discipline under the law cited.

⁵ Section 621.045, RSMo. 2013 Supp.

⁶ *Missouri Real Estate Comm’n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

⁷ Although the Committee could have asked Hedrick to admit these facts constitute cause for discipline, it did not do so.

⁸ *Kennedy v. Missouri Real Estate Commission*, 762 S.W.2d 454, 456-57 (Mo. App., E.D. 1988).

The Committee argues there is cause for discipline under § 337.035:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(15) Being guilty of unethical conduct as defined in "Ethical Rules of Conduct" as adopted by the committee and filed with the secretary of state.

Violation of Regulation/Statute – Subdivision (6)

The Committee argues that Hedrick violated the following regulations and statute.

Regulation 20 CSR 2235-7.010,⁹ entitled Continuing Education, states:

(1) Every psychologist licensed in Missouri shall, on or before February 1, 2002, and every two (2) years thereafter, complete or otherwise obtain for the immediately preceding two (2)-year reporting cycle at least forty (40) hours . . . of accredited "continuing education credits" (herein CE credits) relevant to the practice of psychology.

(2) At least fifteen (15) of the forty (40) continuing education (CE) credits must be completed within Category A (i.e., formal programs which meet the requirements of 20 CSR 2235-7.030(1)(A)); and the remaining twenty-five (25) CE credits must be completed in either Category A or in Category B (i.e., informal programs or hours which meet the requirements of 20 CSR 2235-7.030(1)(B)).

⁹ All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

Regulation 20 CSR 2235-7.020, entitled Continuing Education Reports, states:

- (1) Every psychologist shall maintain for a period of four (4) years from the completion of each reporting cycle full and complete records of all accredited continuing education (CE) programs attended or accredited continuing education credit hours earned during the immediately preceding two (2)-year reporting cycle.
- (2) Such records shall be made available, upon reasonable request during regular business hours, to the committee or to such authorized representative as the committee may hereafter appoint from time-to-time for inspection, photocopying, or audit.

Regulation 20 CSR 2235-7.040 states:

- (2) The . . . individual licensee shall maintain records of continuing education credits as would substantiate meeting these regulations for five (5) years following the submission of the reporting form.
- (3) The committee may require the licensee to submit documents for proof of compliance. Upon receipt of the notification requesting said documents the licensee shall forward documents to the committee's office within thirty (30) days.
- (4) Failure to provide the committee with proof of compliance with the continuing education credit requirement when requested will be considered a violation of the practice act and shall be cause for discipline pursuant to section 337.035, RSMo.

Section 337.050.12, regarding continuing education, provides:

When applying for a renewal of a license pursuant to section 337.030, each licensed psychologist shall submit proof of the completion of at least forty hours of continuing education credit within the two-year period immediately preceding the date of the application for renewal of the license. . . .

Hedrick failed to complete his CE hours for the 2009 – 2011 reporting period, and failed to provide documentation to the Committee upon request and at time of his application for renewal. He violated the regulations and statute and is subject to discipline under § 337.035.2(6).

Unethical Conduct – Subdivision (15)

Regulation 20 CSR 2235-5.030(1)(D) of the Ethical Rules of Conduct for Missouri licensed psychologists, provides: “A violation of these ethical rules of conduct constitutes unprofessional conduct and is sufficient reason for disciplinary action or denial of either original licensure, reinstatement or renewal of licensure.”

Regulation 20 CSR 2235-5.030(13)(A) of the Ethical Rules of Conduct for Missouri licensed psychologists, provides: “[t]he psychologist shall not violate any applicable statute or administrative rule regarding the practice of psychology.”

Therefore, the violations of regulations and statute we found above concerning Hedrick’s CE hours constitute a violation of ethical rule 20 CSR 2235-5.030(13)(A). Violating an ethical rule constitutes unethical and unprofessional conduct. There is cause for discipline under § 337.035.2(15).

Regulation 20 CSR 2235-5.030(3)(B) of the Ethical Rules of Conduct for Missouri licensed psychologists, provides: “[t]he psychologist shall maintain current competency in the areas in which s/he practices, through continuing education. . . in conformance with current standards of scientific and professional knowledge.” Hedrick failed to maintain his competency through continuing education by failing to complete his CE hours as required. There is cause for discipline under § 337.035.2(15) for violating 20 CSR 2235-5.030(3)(B).

Summary

Hedrick is subject to discipline under § 337.035.2(6) and (15). We cancel the hearing.

SO ORDERED on April 24, 2014.

\s\ Mary E. Nelson
MARY E. NELSON
Commissioner